

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GREGORY MORGENWECK,

Plaintiff,

08 Civ. 2969 (BSJ) (RLE)

-against-

VISION CAPITAL ADVISORS, LLC,
VISION OPPORTUNITY CAPITAL
MANAGEMENT, LLC, ADAM BENOWITZ
and RANDOLPH COHEN,

Defendants.

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DECLARATION OF ERIC B. FISHER

ERIC B. FISHER, pursuant to 28 U.S.C. § 1746, under penalty of perjury, hereby declares as follows:

1. I am an attorney with the law firm of Butzel Long, a professional corporation, counsel for defendants. I submit this declaration in support of defendants' motion for summary judgment.

2. Attached hereto are true and correct copies of the following documents:

- Exhibit A: Complaint filed on March 6, 2008.
- Exhibit B: Deposition testimony of Randolph Cohen dated December 12, 2008.
- Exhibit C: Deposition testimony of Gregory Morgenweck dated October 2, 2008.
- Exhibit D: Deposition testimony of Gregory Morgenweck dated October 24, 2008.
- Exhibit E: Demand letter from plaintiff's counsel dated January 31, 2008.
- Exhibit F: Email from plaintiff dated December 27, 2005, transmitting purported consulting bill for 2005.

- Exhibit G: String of emails, including email dated January 30, 2006 from plaintiff, in which plaintiff writes, "We are good," with reference to Consulting and License Agreement.
- Exhibit H: Consulting and License Agreement dated January 31, 2006.
- Exhibit I: U.S. Individual Income Tax Return for Gregory Morgenweck (2005)
- Exhibit J: U.S. Individual Income Tax Return for Gregory Morgenweck (2006)
- Exhibit K: Email from Cohen to Morgenweck dated April 8, 2006, confirming "1099" income for 2005.
- Exhibit L: Email from Cohen to Morgenweck dated April 10, 2007, confirming "1099" income for 2006.
- Exhibit M: Expert Report of Jonathan Katz dated December 11, 2008.
- Exhibit N: Deposition testimony of Adam Benowitz dated December 16, 2008.

3. I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on this 6th day of March, 2009.

/s/ Eric B. Fisher
Eric B. Fisher